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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable William E. Shinn, Jr.
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County Commissioners - Employees,
Employers, Employment - Conflicts of
Interest

The "entire time" language used in Act 129 of the 1939 Local Acts of Alabama should be interpreted as making the position of county commissioner a full-time position. Notwithstanding, it is permissible for a Morgan County commissioner to engage in outside employment for compensation while in office so long as the outside employment does not interfere with the performance of the commissioner's official duties or create a conflict of interest, and such activities are part time in nature occurring after normal work hours.

Dear Mr. Shinn:

This opinion of the Attorney General is issued in response to your request on behalf of the Morgan County Commission.

QUESTION

In the light of the "entire time" language in the local laws of Morgan County, is it permissible for a Morgan County district commissioner to engage in outside employment for compensation so long as the

outside employment does not interfere with the performance of the commissioner's duties?

FACTS AND ANALYSIS

Act 129 of the 1939 Alabama Legislature ("Act 129") sets out the local laws for Morgan County. Section 2 of Act 129 provides, in relevant part, that "[t]he members of the Board from Districts One to Four, inclusive, shall devote their *entire time* to the business of the County . . ." 1939 Ala. Acts No. 129, 70, 74 (emphasis added). Additionally, section 13 of Act 129 provides, in relevant part, that "the Chairman [of the county commission] shall devote his entire time to the duties of his office." *Id.* at 80. Your question is whether the "entire time" language in Act 129 precludes Morgan County district commissioners from engaging in outside employment while holding office on the Morgan County Commission.

Previously, this Office has determined that the term "entire time" means that a person maintains a full-time position. Opinion to Honorable Larry Benich, Chairman, Morgan County Commission, dated September 17, 1997, A.G. No. 97-00280. Other opinions have determined that a person in a full-time position is not prohibited from engaging in outside employment as long as such employment occurs outside normal business hours (Opinion to Honorable J. Russell Gibson, Chairman, Civil Service Board of the City of Tuscaloosa, dated October 24, 1996, A.G. No. 97-00018), does not conflict or interfere with that person's present position (opinion to Honorable Walter B. Calton, Barbour County Attorney, dated May 7, 2008, A.G. No. 2008-078), and such employment is part time (Honorable Gerald Dial, Member, State Senate, dated August 29, 1989, A.G. No. 89-00414). Therefore, it is the opinion of this Office that it is permissible for a Morgan County district commissioner to engage in outside employment for compensation while in office so long as any outside employment does not interfere with the performance of the commissioner's official duties or create a conflict of interest, and this employment occurs after normal work hours.

CONCLUSION

The "entire time" language used in Act 129 of the 1939 Local Acts of Alabama should be interpreted as making the position of county commissioner a full-time position. Notwithstanding, it is permissible for a Morgan County commissioner to engage in outside employment for compensation while in office so long as the outside employment does not interfere with the performance of

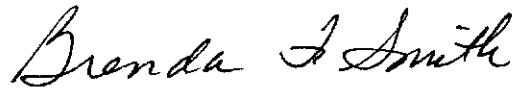
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the commissioner's official duties or create a conflict of interest, and such activities are part time in nature occurring after normal work hours.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING
Attorney General
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

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